

Church Reliance on Volunteers: A Legal Perspective

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It is common practice for churches to utilize the services of volunteers, church members, and parishioners for a wide variety of church needs. Churches often rely on volunteers for their contributions and work with construction, repair, maintenance, cleaning and janitorial, information technology, office, and chaperone tasks and services. Volunteer service is indeed an essential element of a church's operations.

However, when calling upon volunteers to perform a task for the church, it is important that church leadership understand the legal implications of their reliance on volunteer service. As with work that a paid church employee conducts on behalf of the church, volunteer church work is not without potential risk to the church. This article explores the risks that churches assume when they use volunteers for their church operations.

First, churches need to know that volunteers, as with employees, can be considered "agents" of the church. An agent is a person who, by agreement with another (the principal), represents the principal in dealing with others, transacts business, manages the affairs of, or provides a service for the principal *with or without compensation*. An agency arrangement can be written or oral, express or implied.

Thus, in the event that the actions of a volunteer doing a service for the church results in an injury or damages to a third person, should the church get sued for the volunteer's negligence, it is not a defense that the



individual at fault was "just a volunteer." This is particularly true if the church retains the right to control or direct the actions of the volunteer's services. At trial, if a church volunteer is found to be negligent, a jury may also find that the church is vicariously liable by and through the negligent acts or omissions of its agent.

As an example, let's say that a church has some electrical work that must be done in its rec room and it permits a volunteer to do the work. However, the work was done poorly, the wires were not grounded properly, and the faulty electrical wiring results in another person suffering an electrical shock. The injured person may file an action against the church volunteer and the church itself for vicarious liability. The plaintiff will likely

contend at trial that the electrical work was done under the control and supervision of the church.

In order to mitigate against potential vicarious liability actions due to a volunteer's work or service, church leadership must be very careful in its selection of volunteers for the particular task at hand. Churches should only have qualified individuals performing the specific volunteer task. In the above example for instance, if the church is looking to have electrical work being done and it decides to use a volunteer instead of hiring and paying a third party vendor, it is critical that the volunteer be licensed and experienced for the job. Ask the volunteer electrician if they have their own liability insurance policy. If they do not, it is probably best not to proceed with that individual.

Likewise, if a volunteer is driving others to church retreats or church sponsored charitable activities, the volunteer's driving history must be vetted for obvious red flags. Someone with a history of DUI or has several accidents in their driving history should not be relied upon to drive others to and from a church sponsored event. In other words, a proper vetting of the volunteer for the specific task is required.

In addition to vicarious liability due to the negligence of a volunteer, churches could also face liability exposure for negligent hiring, retention or supervision of its volunteer. This type of claim is most common in instances where the volunteer acted *outside of* the scope of their agency with the church. For example, a claim that a volunteer church youth mentor, youth ministry leader, or chaperone sexually abused a minor on a church retreat will result in a negligent hiring, retention and supervision action against the church itself. The plaintiff will likely contend that the church knew *or should have known* about the propensity of the volunteer to impose a danger of harm to minors.

Once again, the failure to properly vet a volunteer, even in instances where they clearly acted outside of the scope of their agency, can result in the church being sued. Accordingly, it is vitally important that volunteers be vetted at the outset of their service and that church leaders properly supervise volunteers during and

throughout their service. Any complaints, and even rumors, about a volunteer must be investigated and taken seriously. That means addressing the red flags directly by speaking with the volunteer and questioning them about the complaint against them, as well as speaking with those making the complaint. It is especially important that any and all volunteers working with or around children follow safe conduct policies and procedures, and that church leaders strictly enforce its safe conduct policy. If they do not heed complaints or recognize warning signs, such as a prior violation of the church's safe conduct policy, it may be used as evidence against the church at trial to show that the church failed to properly supervise its volunteer.

Ultimately, churches today rely more and more on volunteer services. Although volunteer service remains an important part of church operations, churches should make wise decisions regarding which volunteers to use, properly vet them at the outset, and closely supervise them throughout the entirety of their volunteer service.

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5 Tips for Managing Church Volunteers

1

Communicate Clear Expectations

2

Use Volunteers Whose Skills Align with the Task

3

Provide Tools and Training to Perform the Task

4

Recognize Volunteer Contributions

5

Always be Recruiting New Volunteers